



# Reasonable Use Exception Wetland Permit, Type III

Handout #35-F Revised: 4/22/08

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## What is a Wetland Permit?

Clark County's Wetlands Protection Ordinance (WPO), Clark County Code (CCC), Chapter 40.450, is designed to protect wetlands and streams that do not fall under the County's Shoreline Management and Habitat Conservation programs. The WPO regulates activities within wetlands and areas immediately surrounding wetlands (i.e., wetland buffers) through the wetland permit process. Wetlands located on adjacent properties may affect a subject site due to extension of wetland buffers across property boundaries. A Wetland Permit from Clark County is required for any one of the following within a wetland or wetland buffer:

- Construction or placement of new structures or additions to existing structures
- Clearing vegetation and grading
- Alteration of wetland hydrology through ditching, diking, piping, or other means

Exemptions can be found in CC 40.450.010(C). State and federal permits may also be required for proposed work within wetlands.

## What is a wetland rating?

Wetlands are classified into four categories (I, II, III, and IV) to determine the level of protection warranted using the Revised Wetland Rating System for Western Washington. This rating system scores the wetland for its ability to provide water quality, water quantity, and habitat functions. The total of these scores determines the wetland rating.

Category I and II are high value wetlands that are very difficult to replace so impacts must generally be avoided. Category III and IV wetlands are moderate in quality and easier to replace or can be altered through a wetland permit provided that wetland functions are replaced (i.e. mitigated).

Wetland buffers and mitigation ratios are determined by the wetland rating. The higher the quality of the wetland the more mitigation would be required to offset impacts or replace functions.

## What if I have wetlands on most of my site? Can I still build anything?

If you are building or expanding a single family residence, you need to use Handout 35-C. Otherwise, you need a Type III Reasonable Use Exception. This provision in the ordinance allows limited development on wetlands that would otherwise be undevelopable if the application of the Wetland Protection Ordinance would deny all reasonable economic use of the property or would deny the ability of a public agency or utility to complete a linear project where there are no other alignment alternatives that would have less impact. Wetland and/or buffer mitigation will be required for any Reasonable Use Exception.

## Is a pre-application conference required?

A pre-application conference is not required prior to submitting a Wetland Permit application. However, wetland permit applications can be complex, especially when a wetland mitigation plan is required. It is recommended that applicants schedule a consultation meeting with a County Wetland Biologist (there is no fee). This meeting is intended to inform the applicant of project feasibility, mitigation options, application requirements, but can not guarantee preliminary wetland permit approval.

### **Will SEPA be required?**

Wetland Permits are exempt from SEPA unless there is another trigger such as grading in excess of 500 cubic yards, grading in a 100 year floodplain, or construction in a Shoreline Management Area. Non-exempt activities affecting one tenth (0.1) acre of wetland or more will also trigger a SEPA review. Also note that other permits which could be required may also trigger SEPA.

### **What is the application process?**

A Reasonable Use Exception is a Type III review.

The first step is to submit a completed application form and fee, together with the required submittal items to the Permit Services Center. The County conducts two application checks to ensure that applications are complete before staff begins their review process. Prior to accepting your application, the Permit Services staff will conduct a **Counter Complete** review of your submittal package. This initial review ensures that the required items (those preceded by a bold underline) within the **Wetland Permit Review Submittal Requirements** have been submitted before accepting your application (see attached submittal list).

Once your application is accepted, copies of your submittal package are routed to the wetland review staff. Staff conducts a second completeness check, known as the **Fully Complete** or technical review. This more detailed review includes a site visit to verify that wetlands and buffers are affected by the project and ensures that **all of the bulleted items** preceded by check-boxes on the attached submittal list have been submitted. As an example, does the plot plan have sufficient dimensions to accurately locate the structure on the site?

If **all** of the submittal requirements have been met, the application will be processed and a decision will be issued within the timeline required under the Clark County Code.

If any required items are missing from your submittal, you will be contacted by County staff with a list of the missing items. If you do not submit the requested information within 30 days of a written request for additional information, staff will return your application and refund the application fees, less any processing costs incurred to date.

**Three (3)** copies of the required submittal items must be submitted to the Permit Services Center.

### **What is the wetland review process?**

A Reasonable Use Exception for projects other than those associated with a single family residence will be processed as a Type III Review. A Type III review requires a public hearing before the County Hearings Examiner. In making the decision, the Hearing Examiner must determine if the proposed subdivision meets the requirements of the applicable sections of the Clark County Code. This decision is made after reviewing the proposal, the staff's recommendation, and considering all testimony from the public. The Hearing Examiner will then approve, approve with conditions, or deny the application.

### **What kind of public notice is provided?**

Within 14 days of the "fully-complete" date, a notice of the application, with the date, time and place for the public hearing will be mailed to:

- Property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site,
- Applicant,
- Neighborhood Association (if any), and
- SEPA notice to newspaper and listed SEPA agencies.

The notice will invite written comments to be submitted within 14 calendar days of the date of the notice. Copies of any written comments received in a timely manner will be sent to the applicant. The applicant may submit a written response within 14 days from the date the comments are mailed.

The applicant and the county are required to post public notices.

Applicant's sign posting requirements:

At least 30 calendar days prior to the public hearing, the **applicant** must post a public notice sign at the midpoint along the site street frontage at a location five feet inside the property line, or as otherwise directed by the responsible official to maximize visibility.

The sign must include the following information:

- ✓ The project name, a brief description (i.e. 100 single family lots; 50,000 square feet of retail commercial space; etc.) case number, public hearing date, time and location.
- ✓ The telephone number and internet address through which interested parties may contact the County for additional information.
- ✓ The preliminary land subdivision, site plan or other plot plan view depicting the applicable development permit request.
- ✓ The name of the applicant's contact and his or her telephone number, should interested parties wish to contact the applicant directly.

The sign board must be constructed as follows:

- ✓ With 4 foot x 8 foot material and secured with at least two 4 inch by 4 inch posts.
- ✓ The sign shall be made of materials that will endure inclement weather conditions typical of Clark County.
- ✓ The board must be affixed to the posts with at least two 5-inch long 3/8-inch diameter bolts, washers and nuts per post.
- ✓ Bracing shall be provided in order for the sign board to withstand high wind conditions that may occur.
- ✓ Posts shall be dug 24-36 inches into the ground for stability.
- ✓ The top of the sign board shall be designed to be between 7 and 8 feet above grade.

PROPOSED DEVELOPMENT	
SHOPPING HEAVEN <b>50,000 sq. Ft. retail commercial space</b>	
FOR MORE INFORMATION: (360) 397-2375 ext. 4997 WEB: <a href="http://www.clark.wa.gov/commdev">www.clark.wa.gov/commdev</a>	
PUBLIC HEARING: 2/18/2007 1300 Franklin Street, 6th floor, Vancouver ~ 6 p.m. CASE NUMBER: ABC1234-56789	 DEVELOPER: ANY CONTRACTOR LTD. CONTACT NO: (360) 123-4567

Other requirements:

- ✓ The applicant shall maintain the sign board in good condition throughout the application review period, which shall extend through the time of the final county decision on the proposal including the expiration of the applicable appeal period of the

hearing's examiner's decision and Board of County Commissioner action on the appeal, if submitted.

- ✓ If the sign board is removed, county review of the land use application may be discontinued until the board is replaced and has remained in place for the required period of time.
- ✓ The applicant shall remove the sign board within fourteen calendar days after final county decision on the application, including expiration of applicable appeal periods.

**Affidavit of Posting Required:**

The applicant must execute an affidavit certifying where and when the sign board was posted. The signed affidavit must be submitted to the responsible official for inclusion in the project file prior to the public hearing.

**Note:** Clark County's Information Handout #3 "*Applicant Posted Land Use Signs for Type III Reviews*," contains the basic posting requirements as listed above, plus sign specifications needed by the sign company and a sample *Affidavit of Posting Land Use Sign*.

**County public hearing notice requirements:**

At least 15 calendar days prior to the public hearing date, the county will post public notices including the date, time and place of the hearing and describing the proposal as follows:

- Posted at the site;
- Published in the newspaper;
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site;
- Mailed to the Neighborhood Association; and,
- Mailed to the applicant.

The notice will invite interested parties to present testimony at the hearing either orally or in writing.

**What is a Staff Report and when will the Decision be made?**

For Type III reviews, Staff's role is to prepare a Staff Report that summarizes their review of the proposal against the requirements of the Clark County Code, and make a recommendation to approve, approve with conditions or deny the application. This written report will be mailed to the applicant at least 14 calendar days prior to the scheduled public hearing.

**Can a Wetland Permit decision be appealed?**

Type III decisions may be appealed to the Board or County Commissioners by the applicant or any Party-of-Record (i.e. participant in the Type III process). An appellant must submit an appeal application and **\$303** fee within 14 calendar days after the written notice of the decision is mailed.

**After my Wetland Permit is approved, what is next?**

If the approval of your wetland permit does not require Final Wetland Permit approval, you are ready to proceed with your project and complete your mitigation. Staff will coordinate with any assigned development inspector or conduct periodic field inspections to make sure the permit conditions are met.

However, there may be a time table in the decision that requires reporting of the progress of any mitigation required. Once you have documented that your mitigation is complete, your wetland permit file will be closed.

If Final Wetland Permit approval is required, the final details of the wetland plan will be reviewed and approved in conjunction with Engineering Construction Plan approval.

**Note:** This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code, Chapter 40.450.

**Public Service Center  
Community Development Department  
1300 Franklin Street  
P.O. Box 9810  
Vancouver, WA 98666-9810  
Phone: (360) 397-2375; Fax: (360) 397-2011  
Web Page at: <http://www.clark.wa.gov>**



**ADA COMPLIANCE PROGRAM:**

For an alternate format, contact the Clark County ADA Compliance Office, V (360) 397-2375-2025; TTY (360) 397- 2445;  
E-Mail: [ADA@clark.wa.gov](mailto:ADA@clark.wa.gov)

## **DEVELOPMENT REVIEW**

### **WETLAND PERMIT FOR WETLAND BUFFER MODIFICATION APPLICATION SUBMITTAL REQUIREMENTS**

The following checklist identifies information required to be included with Preliminary Wetland Permit Application. **All** items with a bold underlined space (*i.e.*,     ) must be submitted before the application will be considered "Counter Complete." **All** items with a box to the left (*i.e.* ☐) must be submitted before the application will be determined "Fully Complete." All bulleted items (*i.e.*, •), must be submitted, as applicable, but are not a "Fully Complete" requirement.

1.      **COVER SHEET AND TABLE OF CONTENTS** - Each submittal packet shall contain a cover sheet that contains the project name and applicant's name, address, e-mail address, and phone number. A table of contents, tabs and/or dividers to provide assistance in locating the various requirements shall follow the cover sheet.
2.      **APPLICATION FORM** - The application form shall be completed and original signed in ink by the applicant.
3.      **SUPPLEMENTAL WETLAND REVIEW APPLICATION FORM** (DS1594) - The form shall be completed in ink and attached to the application form under Item 2 above.
4.      **APPLICATION FEE** - The requisite fee for a preliminary wetland permit review shall accompany the application. The check is to be made payable to "Clark County Community Development."
5.      **WETLAND DELINEATION REPORT**
6.      **DIGITAL SUBMITTAL** - Submit a digital wetland file to comply with CCC 40.450.030(D)(3) so the county can map your wetland delineation in the GIS.
7.      **WETLAND RATING FORM** - Use the Revised Wetland Rating System for Western Washington (WDOE).
8.      **REASONABLE USE ANALYSIS**- Provide an analysis of the wetland constraints on the project site that result in the denial of reasonable economic of the property use or render a linear public project unbuildable and how the proposal meets the criteria in CCC 40.450.010 B 3 b, c, or d as applicable.
9.      **WETLAND AND BUFFER MITIGATION PLAN** - The wetland buffer mitigation plan shall include the following:
  - ☐ General project description
  - ☐ Description of Existing Conditions Map
  - ☐ Assessment of wetland and buffer functions

- ☐ Discussion of the exact sites, specifications, and justifications for all proposed wetland and buffer modifications and/or activities within wetlands and/or buffers
- ☐ Discussion of avoidance and minimization of impacts pursuant to CCC 40.450.040(D)(1).
- ☐ Mitigation goals and objectives
- ☐ Summary of the proposed wetland and buffer mitigation plan
  - Description of proposed wetland and buffer modifications
  - Description of proposed activities or development in wetlands and buffers
  - Site design measures to reduce land use intensity (refer to 40.450.040 C 1)
  - Proposed grading and/or planting plan
  - Proposed maintenance and monitoring plan
- ☐ Discussion of contingency plans if performance standards are not met

**10. \_\_\_ EXISTING CONDITIONS MAP** - A map of the existing conditions, at a scale no smaller than 1" = 100', shall include the following:

- ☐ All wetlands, ordinary high water marks, and wetland and/or habitat buffers
- ☐ Topography (2 ft. contours minimum) and existing roads, utilities, and structures
- ☐ Vegetation coverage (*i.e.* plant communities)
- ☐ Soil conditions

**11. \_\_\_ PRELIMINARY MITIGATION PLANS AND DRAWINGS** - Plans and drawings, at a scale of 11" x 17" or 8 1/2" x 11" at a scale no smaller than 1" = 100', shall include the following:

- ☐ Site plan showing the location, width, depth, and length of all proposed structures, roads, utilities, stormwater management facilities, and wastewater treatment in relation to parcel, wetland, and buffer boundaries
- ☐ Summary plan of areas of impact and mitigation
  - Impact, reduction, and compensation areas plan
  - Grading plan for all work within wetlands and buffers
  - Planting plan (*i.e.* species, quantities/densities, stock types, and locations)
  - Monitoring plan with photo plot locations and photo angles

## **12. SUBMITTAL COPIES**

- \_\_\_ Three (3) individually bound copies (*e.g.*, using jumbo clips, stapled, comb or spiral binding, etc.), of the wetland application package,
- \_\_\_ 3 Copies of 11" x 17" reduced plans for all sheets larger than 11" x 17"

**This application was determined to be Counter Complete on:**

\_\_\_/\_\_\_/\_\_\_

**Community Development Specialist:** \_\_\_\_\_

**DEVELOPMENT REVIEW  
WETLAND PERMIT REVIEW, TYPE III  
FEE SCHEDULE**

TYPE III REASONABLE USE EXCEPTION

**\$8,570**



# WETLAND REVIEW SUPPLEMENTAL APPLICATION FORM

(Form DS1594-Revised 8/30/06)



If an activity or project that is not explicitly exempt under CCC 40.450.010(C) affects wetlands or wetland buffers, a wetland review will be required. Use this form to identify the type of wetland review that is needed and the associated fee. The handouts referenced in the right hand column will list the specific submittal requirements.

Check applicable box(es) below	Review Type	Fee	Handout
<b>Wetland Pre-determination</b>			
A wetland pre-determination is a request to have County wetland staff conduct an on-site review of up to 40 acres. This is an <b>optional</b> application that should <u>only be submitted in advance of a development application</u> for the site or project.			
<input type="checkbox"/> Wetland Pre-determination	Type I	<b>\$507</b>	35B
<b>Single Family Residence Projects</b>			
Wetland permits associated with residential building permits and home business permits are Type I reviews. The reasonable use exception is for cases where the requirements of the ordinance would prevent the construction of a home and/or normal accessory structures on existing legal lots.			
<input type="checkbox"/> Single family residence	Type I	<b>\$800</b>	35C
<input type="checkbox"/> Home business	Type I	<b>\$800</b>	35C
<input type="checkbox"/> Reasonable use exception (single family)	Type I	<b>\$800</b>	35C
<b>Development and Grading Projects</b>			
Permit typing and submittal requirements for development permits is based on the extent of impact proposed. The reasonable use exception is for cases where the requirements of the ordinance would otherwise render the property unbuildable or would result in denial of a linear project (roads and utilities) deemed to be in the public interest.			
<input type="checkbox"/> Buffer modification only (no direct wetland impact)	Type I	<b>\$800</b>	35D
<input type="checkbox"/> Less than 0.1 acre of direct wetland impact	Type I	<b>\$800</b>	35E
<input type="checkbox"/> 0.1 acre of direct wetland Impact or more	Type II	<b>\$1,806</b>	35E
<input type="checkbox"/> Reasonable use exception	Type III	<b>\$8,570</b>	35F
<input type="checkbox"/> Reauthorization of an approved permit	Type I	<b>\$800</b>	35G
<b>Programmatic Permits</b>			
Programmatic permits are intended to be used for ongoing operations or repetitive activities at multiple sites where impacts and mitigation requirements can be applied without specific County review of each individual impact.			
<input type="checkbox"/> Programmatic permit – SEPA exempt	Type I	<b>\$1,599</b>	35H
<input type="checkbox"/> Programmatic permit – SEPA required	Type I	<b>\$3,199</b>	35H
<input type="checkbox"/> Reauthorization of an approved programmatic permit	Type I	<b>\$800</b>	35I
<input type="checkbox"/> <i>Combined wetland and habitat programmatic permit (check the type of programmatic permit above)</i>	10% fee reduction		

**This form is required for a Counter Complete wetland permit application**